

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

L. C. Brown, Jr.)	C/A No.: 4:15-cv-185-TLW
)	
Petitioner,)	
)	
vs.)	
)	
Warden Reynolds,)	
)	
Respondent.)	
_____)	

ORDER

On July 2, 2014, the Petitioner, L. C. Brown, Jr. (“Petitioner”), filed this §2254 Petition for a Writ of Habeas Corpus. (ECF No. 1).

The matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned. (ECF No. 9). In the Report, the Magistrate Judge recommends that § 2254 Petition be dismissed as a successive § 2254 petition under Rule 9 of the Section 2254 Rules, *without requiring the respondents to file a return*. (ECF No. 9, p. 5). Petitioner filed objections to the Report on February 26, 2015. (ECF No. 11).

The Court has reviewed the Report and the objections. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate

judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court hereby **ACCEPTS** the Report. (ECF No. 9). The Petitioner's objections (ECF No. 11) are **OVERRULED**. The Petitioner's Petition is **DISMISSED** as a successive § 2254 petition, *without requiring the respondents to file a return*.

The Court has reviewed this motion in accordance with Rule 11 of the Rules Governing Section 2254 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised in this petition. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

s/Terry L. Wooten
Chief United States District Judge

June 3, 2015
Columbia, South Carolina